

**Congress of the United States**  
**Washington, DC 20515**

December 16, 2010

The Honorable Julius Genachowski, Chairman  
The Honorable Michael J. Copps, Commissioner  
The Honorable Mignon Clyburn, Commissioner  
The Honorable Robert M. McDowell, Commissioner  
The Honorable Meredith Attwell Baker, Commissioner

Federal Communications Commission  
445 12<sup>th</sup> Street  
Washington, DC 20554

Dear Chairman Genachowski and Commissioners Copps, Clyburn, McDowell and Baker:

As the Commission prepares to consider the Open Internet Order next week, we are writing to encourage your support of the core principles that have enabled the Internet to become the most successful communications and commercial medium in history. The public interest is served by a free and open Internet that functions effectively as an evolving, universal platform for innovation, investment, entrepreneurship, and free speech. To ensure the Internet's vitality, we believe that the following elements should be included in the Order to be considered by the Commission at its Open Meeting on December 21, 2010.

**1. Non-discrimination: Essential for true net neutrality**

A commonsense non-discrimination requirement without loopholes is essential for an efficient marketplace where businesses and consumers – not carriers – decide the winners and losers in the Internet ecosystem. The essence of the Internet is its interconnected nature, which permits users around the world to access and share the lawful content of their choice on an equal footing. Paid prioritization, on the other hand, would be contrary to the Internet's fundamental non-discrimination principles, favoring certain content to the detriment of others, degrading the traffic of users unable or unwilling to pay. These types of arrangements, whether they are called paid prioritization or fast lanes harm the Internet. We strongly encourage you to reject any policies that would permit paid prioritization of delivery of Internet content.

**2. A common regulatory framework and rules for wired and wireless services**

In the past year, there has been a surge in mobile usage, with 100 million YouTube videos viewed on mobile devices everyday and 200 million mobile Facebook users, according to industry estimates. In fact, if the world's population grew at the same rate as mobile application usage, it would have gone from 7 billion people in 2009 to 112 billion in 2010. Exclusion of wireless services from open Internet requirements could stifle this growth, as inconsistent and substandard treatment of traffic transported wirelessly likely would frustrate consumers, who would have different and uneven experiences depending solely on the connection that their

mobile devices might use to reach the Internet. It also would widen the digital divide by establishing an inferior, less open experience for traditionally underserved regions and demographic groups that may more often need to access or choose to access the Internet on a mobile device.

An Internet framework excluding wireless from important consumer safeguards could impede attainment of national broadband goals, while lessening the potential for wireless platforms to serve unserved and underserved areas and help power our economy. While the network architecture differs between wireless and wired broadband, treating platforms neutrally is essential when it comes to how consumers experience the Internet. The Commission should be working to expand spectrum resources for starved services and applications – not allowing providers to manage scarcity.

### **3. Narrow “managed services” exceptions that do not infringe upon open Internet rules**

An overbroad definition of the proposed “managed services” category would sap the vitality and stunt the growth of the Internet. In fact, an overly broad interpretation of managed services would create an exception that swallows the rule. For example, managed services might be rebranded or repackaged services and applications – only with priority treatment not available to competitors. By undermining competition and the value of the open Internet, managed services could have significantly negative consequences for consumers and commercial enterprises.

### **4. Broad definition of broadband Internet access services**

The definition of broadband Internet access services should be broad enough to cover all areas that affect services delivered to customers through the Internet. A definition that leaves loopholes that would exempt limited Internet services from the regulatory framework may create incentives for providers to offer, and potentially prioritize, Internet traffic for specialized services free of FCC regulation. Loopholes or exemptions in such a definition could have the unintended effect of dividing the Internet into fast lanes and slow lanes where only the slow lanes would be under FCC regulation.

The Open Internet rulemaking represents a critical moment in the Internet’s history. Before the Order is considered next week, we believe that it include the policies that preserve the Internet’s characteristics of openness and non-discrimination, establish common rules for wireline and wireless access to the Internet, focus on adherence to the public interest, discourage attempts to strangle the free-flow of lawful content, applications and services for American consumers and provide certainty both for entrepreneurs and Internet users.

We do not believe that these basic, commonsense provisions will harm broadband deployment, in fact we believe that consumers demand more connections and faster speeds from service providers when application developers stretch the mind's imagination by creating new tools and products. Regulatory certainty on this issue is essential to growth for both broadband providers and application developers – effective rules will deliver that certainty for both important parts of the market.

Thank you for the opportunity to share our views on this issue that is critically important to our economic productivity, job growth, free speech and more.

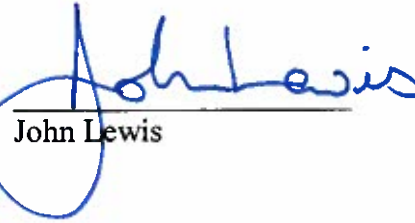
Sincerely,

  
Edward Markey

  
Anna G. Eshoo

  
Mike Doyle

  
Raul Grijalva

  
John Lewis